

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**FILED UNDER SEAL**

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 13-10200-GAO
	)	
DZHOKHAR TSARNAEV	)	

**DEFENDANT’S MOTION TO EXCUSE JUROR 138 FOR CAUSE  
BASED ON NEWLY DISCOVERED INFORMATION**

The defendant, Dzhokhar Tsarnaev, by and through counsel, respectfully moves to excuse for cause Juror 138, who was questioned on January 23, 2015. The motion is based on newly discovered information, set forth below, which directly contradicts his sworn answer to the Court’s questions and shows that he violated a direct court order.

On January 5, the juror made several posts on Facebook regarding his appearance for jury service. Several of his Facebook friends commented in reply. When he appeared for voir dire on January 23, the juror was asked about his Facebook use, including whether anyone had commented “about this trial.” 1/23/15: 17. The juror responded, “No.”

The January 5 posts, attached as Exhibit 1, start with his comment, apparently made before 7:16 a.m. (judging by the first response), that he was at the federal courthouse: “Jury duty ... this should be interesting ... couple thousand people already here [.]” One friend responded: Did you get picked for the marathon bomber trial!!!!??? That’s awesome.” He answered, “Ya awesome alright haha there’s like 1000s of

people[.]” A friend commented less than an hour later (at 8:12 am) “If you’re really on jury duty, this guys got no shot in hell.”

At 1:15 p.m, after the jury pool was instructed, the juror posted details about the schedule. At 1:22 p.m., he wrote “Shud (sic) be crazy he was legit like ten feet infront (sic) of me today with his 5 or 6 team of lawyers .. can’t say much else about it tho ... that’s against the rules[.]” A friend responded, “Since when does Mike Neal care about rules?” Another advised, “Play the part so u get on the jury then send him to jail where he will be taken care of [.]”

The juror wrote, “When the Feds are involved id rather not take my chances . . . them locals tho .. pishhh ain’t no thang[.]” A friend commented, “Yea supercareful bc should you get picked any mention of anything can get you booted or call for mistrial.”

The juror was dishonest with the Court about comments on Facebook and violated the Court’s instructions within just a few hours of receiving them. The Court told the assembled jury panel, “I now order each of you not to discuss this case with your family, friends, or any other person until I either excuse you, or if you are selected as a juror, until the case concludes. This is a court order, willful violation of which may be punishable as a contempt of court or otherwise.”

The Court did instruct the jurors that they could tell others that they may be a juror in this case and discuss the schedule. The Court added, “you are not to discuss anything else or allow anyone to discuss with you anything about this case until you are excused or, if you are a juror, until the trial concludes.”

The juror's eagerness to communicate his experience to his friends, just after being sternly told not to, reveals a willingness to flout the rules, a lack of maturity, and a failure to appreciate the seriousness of these procedures.


His friends' comments also are troubling, as they suggest that he is not likely to abide by rules and that "this guys got no shot in hell" if the juror was selected.

### **Conclusion**

For the foregoing reasons, as well as the fact that the juror disclosed during jury selection that he is currently under treatment for opiate addiction, the defendant requests that Juror 138 be excused for cause.

Respectfully submitted,

DZHOKHAR TSARNAEV  
by his attorneys

s/   
\_\_\_\_\_  
Miriam Conrad

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**Certificate of Service**

I hereby certify that this document was served upon opposing counsel by email and hand delivery on February 27, 2015.

A handwritten signature in blue ink, appearing to read 'Miriam Conrad', is written over a horizontal line.

Miriam Conrad